

Has further



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Twentyfirst Century Technology Innovations  
Research and Development Enterprising  
File: B-225179  
Date: March 17, 1987

### DIGEST

In light of agency discretion under the Small Business Innovation Research Program to fund or reject any particular proposal, General Accounting Office review of agency's rejection of a proposal submitted under that program is limited to determining whether agency complied with any applicable regulations and solicitation provisions and whether agency acted fraudulently or in bad faith.

### DECISION

Twentyfirst Century Technology Innovations Research and Development Enterprising protests the Strategic Defense Initiative Organization's (SDIO) failure to award it Phase I research funds for a project the firm proposed in response to Topic 86-5, "Nonnuclear Space Power and Power Conditioning," of SDIO solicitation No. 86.1. Twentyfirst contends that SDIO failed to properly evaluate its proposal and argues that a proper evaluation would have resulted in the funding of Twentyfirst's project.

We deny the protest.

The solicitation was issued under the Small Business Innovation Research Program. This program was established under the Small Business Innovation Development Act (Innovation Act), 15 U.S.C. § 638 (1982), which requires federal agencies to reserve a portion of their research and development efforts for awards to small businesses under solicitations issued pursuant to the Innovation Act. The solicitation provided for each Phase I proposal to be evaluated on a competitive basis in accordance with five evaluation criteria. These were the scientific/technical quality of the proposal; the qualifications of the principal

038384

investigator (the offeror) and his key staff and consultants and the adequacy of the available facilities; the anticipated benefits to the total Department of Defense research and development effort; the adequacy of the proposed effort to show progress toward demonstrating the feasibility of the concept; and the cost to the government. Each criterion was weighted equally, except that the first criterion was given twice the weight of any of the others. The final decision as to funding was to be based upon this evaluation and other factors, including possible duplication of other work and program balance.

The agency rejected the protester's proposal because it concluded that Twentyfirst could not develop a solar device of interest to it. In this regard, the agency says that Twentyfirst's proposal did not identify the proposed benefits to SDIO and failed to convince the evaluators by credible calculations that the project could lead to an advancement in the state-of-the-art. Further, the evaluators were not convinced that the firm had the technical ability to conduct the proposed project because there was no evidence of prior research experience. In essence, the protester states that it strongly objects to the agency's technical conclusions and argues that both the President and the U.S.S.R. are interested in its project.

The selection of research proposals solicited pursuant to the Innovation Act is a competitive procedure. 10 U.S.C. § 2302(2)(E) (Supp. III 1985); Anthra Pharmaceuticals, Inc., B-220523, Jan. 8, 1986, 86-1 CPD ¶ 17. However, as the agency points out, the law does not require award under this program to be made to any particular proposer, and a Small Business Administration Policy Directive specifically provides that the "agency is under no obligation to find any proposal or . . . specific number of proposals . . . [and] may elect to fund several or none of the proposed approaches . . . ." Since the agency therefore has significant discretion to determine what proposals, if any, it will accept, our review in cases such as this is limited to determining whether the agency violated any applicable regulations and solicitation provisions and whether the agency acted fraudulently or in bad faith.

In this case the agency, in the exercise of its technical judgment, concluded that the protester's project was not scientifically feasible. While it is clear that the protester disagrees with the agency's view, it has not demonstrated that the agency's conclusion regarding this highly technical project is the result of fraud or bad

faith, or that there has been a violation of any regulation or solicitation provision.

We deny the protest.

*Harry R. Van Cleve*

Harry R. Van Cleve  
General Counsel